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*Published in:*  
Victims & Offenders

*Publication date:*  
2011

*Document Version*  
Peer reviewed version

[Link to publication in Tilburg University Research Portal](#)

*Citation for published version (APA):*

van der Aa, S., & Groenen, A. (2011). Identifying the needs of stalking victims and the responsiveness of the criminal justice system: A qualitative study in Belgium and the Netherlands. *Victims & Offenders*, 6(1), 19-37.

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**Identifying the Needs of Stalking Victims and the Responsiveness of the Criminal  
Justice System: A qualitative study in Belgium and the Netherlands.**

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Justice System: A qualitative study in Belgium and the Netherlands.**

## Abstract

This study aims to explore what procedural and distributive needs stalking victims harbour in their contact with the criminal justice system and whether the criminal justice system is responsive to their needs. During 45 in-depth interviews, Belgian and Dutch stalking victims reported a need for proper treatment, for immediate safety, for information, and for outcomes such as arrest and punishment. The additional needs of having one contact person, for a proper registration of their case, and for the possibility *not* to prosecute the stalker were also mentioned. The criminal justice system was sometimes found to be unresponsive to these needs.

*Keywords: stalking, harassment, needs, victims, criminal justice system, qualitative research, Belgium, Netherlands*

## **Identifying the Needs of Stalking Victims and the Responsiveness of the Criminal Justice System: A qualitative study in Belgium and the Netherlands.**

Research on the experiences of victims with the criminal justice system often uses procedural and distributive justice as a theoretical framework. The procedural justice theory basically argues that the opinion of citizens on the legitimacy of the government, the acceptance of governmental decisions and the extent to which governmental regulations are obeyed is more dependent on the manner in which these decisions and regulations came about than on their outcome (Tyler, 1990; Tyler & Lind, 1992). The distributive justice theory contends the exact opposite. In this view, the outcome is the main determinant of civilians' satisfaction with a certain decision (Winkel, Spapens & Letschert, 2006). Both theories, however, take for granted that victims have certain expectations or needs – be they procedural or outcome related – and that victims' satisfaction strongly correlates with the extent to which these needs are met.

Paying sufficient attention to victims' needs is worthwhile for both victims and society as a whole. At the individual level, negative experiences with legal authorities might be associated with enhanced victims' suffering, also referred to as 'secondary victimization'. To the victim, who probably already suffered negative emotional consequences from the crime, unresponsiveness of the system may cause even more confusion and demoralization. Victims who, despite their wishes, were denied a chance to participate in the legal system, appeared to have high levels of psychological distress whereas satisfied victims exhibited better mental health outcomes (Campbell, Wasco, Ahrens, Sefl & Barns as cited in Herman, 2003). Victim satisfaction, on the other hand, may even mitigate crime-related symptoms of Post Traumatic Stress Disorder (Byrne, Kilpatrick, Beaty & Howley as cited in Herman, 2003).<sup>1</sup>

Furthermore, research has suggested that victims' trust in the police and the judiciary and respect for the law may decline when authorities neglect or disrespect them, which places society as a whole at a disadvantage (Wemmers, 1996). In a literature review of 33 empirical studies Ten Boom and Kuijpers (2008) identified several victim needs that were related to the police and other judicial authorities and clustered them in 14 different categories.<sup>2</sup> The law enforcement related needs that were expressed 'relatively often' in the studies under investigation were the need for information, the need for safety and protection, and the need to be heard within criminal proceedings.<sup>3</sup> The needs that were included in Ten Boom and Kuijpers' table were mentioned by all victims, regardless of the crime they had suffered from, only the bereaved and victims of violence showed some additional needs. Victims of violence, for example, expressed the wish to repair the relationship or the wish not to prosecute the offender.

To date there is little research on the needs of stalking victims in general (Balogh, Van Haaf & Römken, 2008, p. 14). The only study that focused on stalking victim's needs is that of Brewster (1999). From the 187 female stalking victims she interviewed, 38% identified psychological/emotional support as their greatest need, followed by a sense of security (23%) and support from the criminal justice system (10%). Studies on the needs of victims in relation to the criminal justice system are even non-existent. However, like victims of violence, victims of stalking may have different or additional needs. Additional needs may, for instance, derive from the complicating factor that stalking victims often come into contact with the police on several occasions over a longer period of time.

Another point that has not been topic of much research is how the criminal justice system responds to stalking victims' needs. Insofar stalking victims' dissatisfaction with the justice system is concerned there are five important issues that reappear in studies: police and judicial inaction, fear of retaliation, fear of confrontation with the offender, lack of proper

treatment, and ineffectiveness of the intervention. Several studies paint a picture of a criminal justice practice defined by rather low reporting and high attrition rates (Bruynooghe, Vandenberg, Verhaegen, Colemont & Hens, 2003; Groenen, 2006; Tjaden & Thoennes, 1998). On top of that, anecdotal evidence suggests that police fail to act and dismiss a significant percentage of victims' complaints (e.g., Finch, 2001; Morrison, Anderson & Murray, 2000). Taking into account that only a part of the stalking cases is reported to the police, it is remarkable that in a significant part of the reported cases the police remain inactive. In the United States, about half of the stalking incidents were reported to the police however in 18.9% of these cases the police did nothing (Tjaden & Thoennes, 1998). Comparable results could be found in a qualitative study of Logan and others (2006), and in the British Crime Survey (Walby & Allen, 2004). The Dutch Victim Support foundation estimates that at least 25% of the stalking victims are involuntarily sent away from the police station without even having a registration taken down, let alone a report.<sup>4</sup> Victims who were lucky enough to encounter a specialized police officer who took an active interest in their case were in general more positive about the police (D'Haese & Groenen, 2002; Hoffmann, 2003; Morris et al., 2002).

There are several contributors to the police's reluctance to intervene in stalking cases. As in other cases of interpersonal violence, the police believe that arresting the offender is a waste of time, because many victims are inclined to drop charges (Bradburn, 1992-1993; Finch, 2001). A second explanation for police inaction could lie in the perceived difficulty to procure sufficient evidence (Attinello, 1992; Groenen, 2006; Malsch, 2004). The collection of evidence in criminal cases needs to live up to a higher standard than the one used in civil law suits (Attinello, 1992; Malsch, 2004). Criminal proceedings are encumbered by constitutional protections such as due process of law and proof beyond reasonable doubt. Given the ongoing and often varying pursuit tactics, the thin line between legal and illegal behaviour, the lack of

obvious injury, and the unpredictable nature of stalking, police and public prosecution may believe the evidentiary threshold too high in many stalking cases. Finally, it is also possible that negative attitudes about stalking may contribute to police inaction. Kamphuis et al. (2005) found that a lack of decent knowledge about legislation on stalking, as well as a stereotype attitude towards stalking result in less action by the police.

The second theme for victims' dissatisfaction with the justice system evolves around the fear of retaliation. In a review of prior studies, fear of retaliation was one of the primary barriers to women seeking legal intervention for victimization from interpersonal violence (Jordon, 2004). In another study, half of the interviewed stalking victims mentioned fear of retaliation as well (Logan et al., 2006). Moreover, these fears often are based on offenders' intimidating actions. Some victims reported experiencing threats or actual acts of retaliation from the offender (Jordan, 2004) or being intimidated into dropping the charges after the suspect was released on bond (Attinello, 1992). In the aforementioned American and English community studies about 15% of the victims did not report the stalking to the police for fear of escalation or retaliation (also Finch, 2001; Carlson, Harris & Holden, 1999).

A third reason for victims to shy away from a reporting crimes to the police is the dread of being confronted with the offender. Jordan (2004) found that – given the adversarial nature of the American court systems – victims are confronted with the offender and that this experience can be very upsetting (also Morris et al., 2002). Even though the Dutch and Belgium court system is based on an inquisitorial footing where cross-examinations are non-existent, victims still run a significant risk of having to appear in court as witnesses and hence see themselves exposed to the very person they wish to avoid. This idea may influence the decision of the victim to not lodge a complaint or to withdraw his or her complaint, and may contribute to their dissatisfaction with the legal process.



The lack of proper or respectful treatment from the police is a fourth reason for victim's dissatisfaction. Finch's (2001) interviews with stalking victims brought to light that one of the main complaints against the police was the improper treatment that they received. Logan (2006) found similar results. Lack of proper treatment often showed itself by the reluctance of police officials to take victims of stalking seriously. In another study two-third of the victims (N=48) who had been into contact with the police were very satisfied with their work, but only half of them felt taken seriously (Bettermann as cited in Hoffmann, 2003). In a larger study of 190 victims the result was even more sobering: 73% did not feel being taken seriously by the police and 86% thought that the steps that were taken were insufficient (Hoffmann, 2003). Some officers have reported that stalking is not a serious crime and that stalking was a domestic or private matter that was inappropriate for criminal justice intervention (Bradburn, 1992; Morris et al., 2000; Rupp, 2005; Spitzberg 2002). The trivialization of stalking by legal professionals has a major influence on their treatment of stalking victims (Kamphuis et al., 2005; Logan et al., 2006).

On top of these procedural difficulties lies the fact that the effectiveness of legal interventions in deterring stalkers is by no means guaranteed. The effect of calling the police on reducing further stalking has been perceived as having both positive and negative effects. For example, in a survey under 105 Dutch celebrities, the celebrities that were stalked named 'calling the police' as the response that was the most effective (Malsch, Visscher & Blaauw, 2002). However, an alarming finding is that the respondents in Sheridan's (2001) study of 29 stalking victims found that the stalking had sometimes escalated as a result of legal intervention. Furthermore, only 1 % of American stalking victims reported that a conviction had ended the stalking, whereas 15 % attributed this effect to a conversation with the police and 9 % to the arrest of the offender (Tjaden & Thoennes, 1998). Consistent with victims' perception that police contact does not stop the stalking, a large majority of the Dutch stalkers

had contact with the police prior to the stalking charges (Malsch, 2004). Out of 588 stalking cases that were registered in the judicial database 78% of the male and 56% of the female stalkers already had a prior police record (Baas, 2003). It appears that past experiences with the police had not made such a lasting impression as to prevent these people from involvement in yet another crime. The criminal justice's ineffectiveness at guaranteeing victims' personal safety is a fifth reason for victim's dissatisfaction. Supporting victim's concern about safety, Römken and Mastenbroek (1999) in their evaluation of the pilot into the AWARE alarm system<sup>5</sup> found out that participants were principally interested in protection against their stalker, followed by the arrest and prosecution of the perpetrator as their second major concern.

In addition to these five recurring problems, research has identified other issues that may affect victims' satisfaction with how the criminal justice system handles their stalking cases. Stalking is sometimes poorly registered and filed, which causes vital information to become lost and makes the analysis of stalking cases difficult (Malsch, 2004). Furthermore, the difficult task of evidence collection and documentation was sometimes too easily placed upon the shoulders of the victims (Cupach & Spitzberg, 2004, p.150; Dussuyer, 2000; Gist et al, 2001; Kerbein & Pröbsting, 2002; Malsch, 2004; Spitzberg, 2002) Finally, the slow pace of the process (Finn & Colson, 1990; Jordan, 2004; Malsch, 2004; Rupp, 2005), the need to recount 'the whole story' each time a new incident occurred (Morris et al., 2000) and the lack of information on the progress of the case provoked victims' frustration (Finch, 2001).

Before assessing whether these and other difficulties are present in Dutch and Belgium practice, it is indispensable to first have a look at the way stalking was criminalized in the respective countries.

### Stalking Legislation in Belgium and The Netherlands

About a decade after the introduction of the Californian anti-stalking in 1991, Belgium and the Netherlands enacted separate laws to criminalize stalking. Belgium has a stalking law that came into force in the year 1998. The new Article 442bis that was introduced in the Belgian Penal Code states:

*“He, who has harassed a person, while he knew or should have known that due to his behaviour he would severely disturb this person’s peace, will be punished with imprisonment of fifteen days to two years and with a fine ranging from 50 euro to 300 euro or with one of those punishments. The behaviour described in this Article can only be prosecuted on complaint of the person claiming to be harassed.”*

Article 285b of the Dutch Criminal Code was enacted in July 2000 and it reads as follows:

*“He, who unlawfully, repeatedly, wilfully intrudes upon a person’s privacy with the intent to force that person to do something, to refrain from doing something, to bear something or to instigate fear in that person, will be punished, as guilty of stalking, to a prison term with a maximum of three years or a fine of the fourth category.”*

As in Belgium, prosecution can only occur on the request of the person against whom the crime was committed and the police are allowed to arrest the stalker and hold him or her in preventive custody if this is deemed necessary.

As can be witnessed by the definitions above, both countries have clearly opted for a broad definition of stalking. In the Netherlands, early attempts to limit the scope of Article 285b have all remained without consequence so far<sup>6</sup> and in Belgium, even a *non-recurring* disturbance of a person’s peace and quiet can suffice to classify behaviour as stalking.

Furthermore, in contrast to many Anglo-Saxon countries, both the Belgian as the Dutch provision have not included a ‘fear’ requirement as a constituent of stalking. Clearly, the focus lies on the protection of a person’s privacy, not necessarily the induction of fear. Given the broad definitions of stalking and the relative lenience of both Supreme Courts towards classifying behaviour as stalking it appears that at least the substantive law will not pose many difficulties for law enforcement authorities to intervene in these cases.

That it is not only relatively easy to prosecute and convict stalkers in theory, may be deduced from the fact that in the Netherlands no less than 605 cases of stalking were dealt with in the criminal courts in 2004 (Malsch, De Keijser & Rodjan, 2006). In Belgium the number of convictions evolved from 17 in the first year after the enactment of the law to 602 in 2004 (Groenen, 2006). However, contrary to certain policy guidelines,<sup>7</sup> only 23% of all registrations of stalking with the police result in a report and of those reports just 1% of the cases concluded in the conviction of the suspect (Malsch, Muijsken & Visscher, 2005).

The creation of new legislation like Article 442bis and 285b may seem impressive, but it says little on the way these rules work out in practice. A lot depends on the attitude and the mutual understanding of the parties involved. Prejudiced attitudes towards stalking can, for example, cloud the judgment by the police as to the appropriateness of an intervention. The introduction of new crimes may be nothing more than ‘paper compliance’ to societal or political pressure. Victim interviews are therefore needed to see how both Articles are implemented in real life.

#### Purpose of Current Research

The aims of this research are a) to find out whether stalking victims have special procedural and distributive needs, and if so, b) to what extent the Dutch and Belgian criminal justice system is responsive to their needs. This explorative study tries to answer the aforementioned questions by means of 45 semi-structured interviews with victims of stalking.

The interviews were conducted in two different countries instead of one in order to see whether the needs transcend national boundaries or whether they are country specific. The subsequent choice for Belgium and the Netherlands was in the first place inspired by the fact that there had not been much stalking research carried out in any of those countries. To date the literature on stalking is still dominated by Anglo-Saxon research. The other reason was of a more pragmatic nature: both the authors live and work there, so contacts had already been established and there was no language barrier.

### Method

Interviews were chosen as the appropriate research strategy for this project, since in-depth interviews with open-ended questions are particularly suited to carry out explorative research. There is very little research on the needs of stalking victim in their contact with the criminal justice system and, as a consequence there is little prescience on the alternative answers these victims may come up with. This excludes the option of measuring stalking victims' needs through quantitative surveys with fixed answer alternatives. In-depth interviews enable respondents to formulate any answer they see fit and to relate on their experiences for as long as they need.

The interviews were situated in a research on the experiences of victims of stalking with the criminal law enforcement system. The data set consists of 20 Dutch (2 males and 18 female victims) and 25 Belgian (3 males and 22 females) victims who had contact with the criminal justice system.

In the Netherlands the interviews were the outgrowth of a quantitative stalking victimization survey that was distributed by the first author via the national victim support organization. The quantitative study consisted of a 10-page questionnaire that was sent to 1500 stalking victims who were registered as such at the Dutch Victim Support organisation.

Respondents were 15 years or older and they had all contacted the police after July 2000 when stalking was criminalized in the Netherlands. Victims who had indicated on their survey that they were willing to cooperate to a more in-depth interview were kept apart from the others and from this group 20 victims were selected randomly. The Dutch interviews were conducted over the telephone by the authors for reasons of efficiency. Each interview was tape-recorded and later transcribed. Data were collected from March 2007 to June 2007.

In Belgium all stalking victims who contacted the police in two cities were invited to participate in the research. Of this group victims were selected randomly for an interview. The victims that were willing to participate were invited to the social service desk of the police station where the authors held face-to-face interviews.

In both countries the same semi-structured interview protocol was used with open-ended questions. The interview protocol asked victims to recount the stalking incidents that had happened to them, which actions the police and public prosecution had undertaken in their case, what effect these actions had on the stalking, what they had experienced as positive or negative aspects of the law enforcement system and what they would recommend to improve the criminal justice response. By inquiring after their expectancies of the police contact and whether victims had had (unfulfilled) wishes, the authors tried to identify stalking victim's needs.

All respondents were posed the same questions (via the standard protocol), but there was room for elaboration if something interesting came up. From this respect, the emphasis of the interviews differed somewhat, depending on the reaction of the victim. Whether respondents accurately understood the questions, was not checked for, but the questions were pretty straightforward and respondents showed no signs of incomprehension (e.g. by giving irrelevant answers).

The answers were content analysed: The authors read the interviews independently from each other and recognized certain themes or clusters of answers. These themes formed the basis of the description. In Belgium, the interviews were coded and the interrater reliability of the coding was calculated with the help of Cohen's kappa. Five interviews were coded by two researchers and it turned out that they almost never disagreed on the coding ( $K > .90$ ). In the Netherlands, there was not an independent calculation of Cohen's kappa, but the same interview protocol was used and the coding was congruent with the Belgium sample. Since the same interview protocol was used and since many of the answers were unequivocal ('they did not take me seriously') it was not hard to interpret the interviews in the same manner as in Belgium. The few answers that were vaguely phrased or that required a more subjective judgement about the respondent's meaning were discussed amongst the two authors to make sure that both authors agreed on the final interpretation. During these discussions it turned out that the authors never disagreed on any of the suggested themes. All themes that could be discerned were included in the article (also those that were only mentioned by one or two victims) and after that, the authors selected appropriate quotes in accordance with the established themes.

## Results

One finding from the interviews is victims had mixed experienced with the police. When the police took their cases seriously and tried to start an intervention, victims generally felt supported and satisfied.

*"I am satisfied about the relief and treatment of the police force and realise that they can only act within certain boundaries. The police had informed me about the legal procedures and*

*referred me to the service of victim aid. Soon after my charge the police contacted me again and I felt supported.” (Belgian female victim of ex-partner stalking)*

Although many victims were satisfied, the five primary issues that emerged in the literature review appeared to be the main causes of concern to Dutch and Belgian victims as well.

#### *Police inaction and lack of proper treatment*

Especially Dutch victims criticized the police regularly for not doing anything or – when they did act – for stalling serious action until months or even years had elapsed. Police inaction was frequently related to their disinclination to acknowledge the behaviour as a genuine crime worthy of punishment. Officers sometimes explicitly trivialized the victims’ experiences, either because they did not view the behaviour as a serious crime or because they took pity on the stalker after a break-up. Other times their indifference shone through in their insensitive advice (e.g. to move) or the blunt refusal to take down a report. The disinterest was generally not justified by the lack of seriousness of the stalking incidents. Even when victims claimed to have been physically assaulted or threatened, the police still discarded their case.

*“After this he drove by my house several times a day with his bus. Pure intimidation, but the police said ‘You are inside the house, aren’t you, so you’re safe’.” (Dutch female victim of stalking by an acquaintance)*

In line with the trivialization of the stalking as such, the police were also accused of not taking the victim seriously and being disrespectful. Victims reported being disbelieved, insulted, laughed at or even blamed for the stalking themselves.



*“I was viewed as being the perpetrator instead of the victim. Only after I had gathered and presented evidence to the contrary myself I was believed.” (Dutch female victim of ex-partner stalking)*

Another worrying finding was that some police officers seem to abuse the option to take down a notification instead of an official report. The possibility to only notify the police of a criminal offence without the obligation to file for a report was inserted in the Dutch and Belgian criminal system for crimes that could only be prosecuted after an official complaint of the victim. Some victims are reluctant to contact the police if this contact automatically results in an official report. Their reluctance can for example derive from the unwillingness to embarrass their (ex)partner or from fear of retaliation. Still these victims can feel the need to have the offence recorded without actually having to press charges. The police might be able to give them practical advice and the knowledge that the misconduct has been officially documented by the police can already provide a sense of relief.

*“In the end we went to the police, but the police refused to take down a report. They said we’ll first take down a notification, and a notification, and a notification... [interviewer: ‘Did they say why they refused to take down a report?’] They just said, it’s a civil case, so we’ll only take notifications. [interviewer: ‘How often was a notification taken down?’] I happened to hear 3 weeks ago that there were a total of 53 notifications on my name.” (Dutch female victim of ex-partner stalking)*

But even when victims had succeeded in convincing the police of the genuineness of both the stalking and their victimization, that was still no guarantee of consequent police action or prosecution. In contrast to the importance that seems to be attributed to stalking by the

enactment of Article 285b CC or Article 442bis and the adoption of national guidelines in the event of ex-partner stalking, several cases were dismissed because stalking was not prioritized by the police departments in question. Other times reports were not taken down or cases were dismissed on the grounds that there was insufficient evidence to proceed. Sometimes the assessment that there was too little evidence was based on flawed notions as to what behaviour actually constitutes stalking, what facts can serve as evidence and what powers the police are allowed to exert in investigating and prosecuting stalking. For instance, contrary to what a victim was told, the police *are* authorized to retrieve information from telephone providers and to act without a prior civil restraining order being imposed.

It is not only inaction or a lack of proper treatment that was complained about. Certain victims thought the police was too vigorous. This happened when victim's needs and the goals of the criminal justice system deviated. The assumption that victims always desire to have their stalker go through the entire criminal procedure that starts with a report and ends in a conviction is a false one. The primary concern of victims is protection against the stalker and not necessarily retaliation or retribution. As long as their safety is procured, some victims care little about the means by which this result was achieved and in this respect, the efforts of the police were sometimes diametrically opposed to the needs of victims, because of their focus on an eventual conviction. If that goal appears unattainable the police at times tend to drop the case altogether without contemplating other possible solutions that might be just as effective in putting the stalking to a halt.

*“The only thing I wanted is that the stalker would leave me alone. For me it wasn’t important that he was arrested, but the police didn’t understand that.” (Belgian victim of stalking by an acquaintance)*

### *Fear of retaliation*

In conformity with foreign results fear of retaliation or escalation acted as important barriers to filing a report to some victims in the current sample as well.

*“In the course of time, several notifications were taken down only at the moment when they said ‘would you like to file an official report’, I was afraid.” (Dutch female victim of ex-partner stalking)*

That these fears are not entirely unfounded appears from the fact that some victims actually did experience threats or actual acts of retaliation from the offender.

*“ (...) because of this entire story the thing started escalating with pursuits, stalking – to her as well – and he drove around my house for a long time and he (...) bashed my fence and ruined my fountain.” (Dutch female victim of an acquaintance)*

### *Fear of confrontation with the stalker*

The fear of a confrontation with the offender in the court room was also mentioned on several occasions as an important disadvantage of a resort to criminal justice.

*“I think it is completely absurd that I have to appear in court next to the stalker, while I want to do everything to avoid him and to discourage him in the stalking.” (Belgian female victim of stalking by an ex-partner)*

### *Ineffectiveness*

When the aforementioned hurdles are overcome and both the victim and the judicial authorities are willing to follow the case through this does not automatically imply that the stalker is deterred. Both the Belgian as the Dutch victims indicated that most of the stalkers did not stop after the first interrogation. Even multiple reports and consequent actions of the police remained without a real effect. Often there was a temporary decrease of stalking incidents, but this effect disappeared after a while. Sometimes the harassment continued even when the stalker was in detention or sent to prison.

*“The stalking only stopped right after the perpetrator was imprisoned and we had sent a letter to prison. In prison the stalking initially just continued.” (Dutch female victim of ex-partner stalking)*

### *Recommendations*

Finally, victims were asked to give some recommendations to the police or the justice system on the way they handle stalking cases. Next to the recommendation to take victims more seriously and to take serious and timely action against the stalkers, victims also had three other suggestions for the improvement of the intervention strategy. First of all, victims criticized the police and the judicial services for not keeping them sufficiently informed during the procedure.

*“There is a lack of information about possible intervention strategies in stalking cases. The information given by the police and by the office of the public prosecutor is a shortcoming. I still have no idea what is happening with my file. I was never informed about the actions undertaken, for how long the restraining order was valid, et cetera.” (Belgian female victim of stalking by an acquaintance)*

If the hesitance to provide information comes from the fear of being the bearer of bad news, this fear may be overcome by the appearance that any news is better than no news. In a case where the victim was meticulously informed of all the trials and tribulations that would probably lay ahead of her, she was still pleased with this information.

*“They explained to me that it was a long road to go and that it would cost a lot of energy. I was advised to do something. He was already known to the police. (...) The information on the website of the police on what I could do myself has been of much use to me. It revives one's strength even though the action lies in the advice not to do anything...” (Dutch female victim of ex-partner stalking)*

Secondly, many victims point out that it is very frustrating to have to recount the story several times to different police officers. Despite the fact that certain initiatives have been launched to bring these cases under the supervision of only one officer or one victim service – an initiative that was highly appreciated by the victims that found their case subject to this policy – in practice there appeared to be several difficulties. Victims reported problems with coming into contact with the officer in charge of the case, either because policemen were transferred or removed from the case, or because the victim had moved to another place. Victims explicitly expressed the need for one contact person or a limited amount of persons who are well aware of the particulars of the case and the procedures that govern stalking cases in general. This would save the victims a lot of time and frustration, as well as the police officers involved.

*“The biggest problem is that the case has been transferred about 5 or 6 times already. Every time a new officer takes charge of the case he thinks like: ‘I’ll just give the guy a call’. An officer who is better aware of the case will stop calling all the time. He’ll say ‘Now it’s enough!’.” (Dutch female victim of ex-partner stalking)*

Finally, a lengthy procedure with multiple contacts also involves practical issues that victims perceive as unpleasant. A pragmatic finding that causes great concern is that – perhaps due to the necessity to follow a case through for such a long period - occasionally documents got lost and cases were filed incorrectly. Especially when stalking is concerned, where a judge will have to establish the repetitiveness of the behaviour, a proper documentation and registration of the incidents is of vital importance.

Unsurprisingly, positive remarks on the police and the public prosecution service exactly mirrored the complaints that were depicted above. Timely and accurate action and the invention of creative solutions were highly appreciated. Sometimes victims were put on a special list and their phone calls were given priority to ensure a quick response. Also taking the victim and the crime seriously, showing empathy and treating them with respect appear to be the key factors in victim satisfaction.

*“I believe that the cooperation I received from the police is dependent on the personality of the police officer that came to my rescue. I think I was ‘lucky’ in this respect.” (Dutch female victim of ex-partner stalking)*

### Limitations

This study was limited in a number of important ways. First of all, was the study limited in the sense that the respondents were recruited in a different manner. The interviewees in the Netherlands were found through a victimization survey distributed with

the help of a victim support organization, while the interviewees in Belgium were found because they had contacted the police and were helped by the social service department of the police. It was not possible to employ the same sampling procedure in both countries, since Belgium did not have a comparable Victim Support organization and since the social service of the police in the Netherlands did not have the same experience at the time. However, given the objective of the study, the different sampling poses no threat to the validity and reliability of the findings. The main goal was to recruit people who had been into contact with the criminal justice system as a consequence of their stalking victimization.

In Belgium, the respondents were selected from police districts which paid much attention to stalking victims and which had developed best practices. In the Netherlands the sample also included victims who had come into contact with police districts with a more indifferent attitude towards stalking. As a consequence, the Belgian respondents seemed more satisfied and their needs were more often met. Also, due to the different sampling, the Dutch sample consisted also of people who had contacted the police some time ago, whereas the Belgian sample had more recent experiences.

However, since the purpose of the study was not to generate quantitative data on the prevalence of stalking victims' needs and how often needs were met, but merely to establish an inventory of possible stalking victims' needs and possible problems with the criminal justice system, this should not be a problem. This study specifically does not warrant any generalizations to the workings of the criminal justice system in the different countries, nor to the level of satisfaction of Belgian versus Dutch victims. In order to do that our findings should be substantiated by more quantitative research.

Another limitation was that the respondents of the two countries were interviewed in different ways. An advantage of interviews by telephone over interviews in person is that the influence of social desirability is somewhat reduced. People who are contacted by phone are

more inclined to talk openly about intimate topics than people who are interviewed in person (e.g. Baarda, De Goede & Kalmijn, 2000, p. 17). The interviewee is able to react more anonymously in comparison to people who have to sit face-to-face with their interviewer and this anonymity could stimulate openness and sincerity. However, in the experience of both authors, there was no difference in the length and content of the answers from the telephone interviews and the face-to-face interviews. None of the interviewees seemed to hold back during the conversations. On the contrary, all of them seemed pleased to be given an opportunity to give their opinions, even the ones who were interviewed in person.

### Discussion

There is a lot of overlap between stalking victims and victims of other crimes when it comes to the sort of needs they harbour. Given the nature of the crime, much emphasis was placed on the need for acknowledgement of the incident and the person (proper treatment), immediate safety or prevention of repetition (effectiveness of the intervention and action of the police), information on their case, and outcomes such as arrest and punishment (action of the police). These needs reflect both procedural and distributive elements. The additional need of having one contact person present who knows about the particulars of the case was related to the length of the procedure and the necessity to come into contact with the police on more than one occasion. A contact person would prevent the victim from having to tell his or her story over and over again, a procedure that often caused extra stress. The need for a proper registration of their case was also important, especially from the point of view of the perceived difficulty to prove stalking. Every incident has to be documented meticulously in order to establish the repetitiveness of the behaviour, a requirement that is unique to the crime of stalking. Finally, there was also sometimes a need *not* to prosecute the stalker. Apart from the need for one contact person, the need for a proper documentation of all the incidents and



the need to receive protection without automatic prosecution, no additional needs were found. These needs seem to transcend national boundaries, since both Belgian as Dutch victims mention the same needs.

What is remarkable, however, is the extent to which the criminal justice system is responsive to stalking victims' needs. Although it needs to be stressed that most of the victims were satisfied with the way the police handled their case, there were still some problems. Most of the reported problems that stalking victims encountered had to do with lack of proper treatment, ineffectiveness of interventions, fear or retaliation, fear of confrontation and inaction of the police.

In the current sample the police inaction was frequently related to their disinclination to acknowledge the behaviour as a genuine crime or not taking the victims seriously, which often resulted in an improper treatment of victims. Victims were not always taken seriously, not only to the extent that the police denied the existence of the crime or blamed the victims, but even to the extent that victims were accused of being the offender instead.

Certain precautions are not always unjustified. There have been cases in which people – perhaps suffering from false victimization syndrome – have accused innocent others and sometimes stalkers have been known to falsely accuse their victims. Keeping this in mind, it is understandable that the police are on their guard for false accusations and that they do not take every complaint for granted without corroborating evidence. Still it is wrong to take false accusations as a general point of departure when stalking is concerned. Known cases of false accusations are sparse and do not justify a general distrust of people who wish to report a case of stalking. Only after strong evidence to the contrary one may feel comfortable enough to case suspicion on an alleged victim, and as long as that is not the case, a victim should remain a victim unless proven otherwise.

Another possible explanation for the improper conduct of the police against the complainants may be that some victims do not live up to the image of the ‘perfect’ or ‘ideal’ victim. An ideal victim is willing to meticulously collect, document and supply evidence to the police, but not to contact them or to complain too often; to be understanding of all the possible procedural and evidentiary predicaments inherent in the criminal justice system; to keep his or her calm even though the procedure is lengthy and immediate protection may not be provided for; and finally, to stay away from contacting the stalking him- or herself. It may not come as a surprise, that reality is often more obstinate than that. Victims sometimes lose their temper, confront their stalker and may openly show their disappointment with the police.

The unwillingness to take down official reports and instead offering only recordings could be seen as a manifestation of this negative attitude. When the recordings are used as a way to diminish the pressure on victims by giving them the authority to withhold prosecution the option is to be applauded. In our sample some victims were afraid to file an official report. However, where the police use the possibility to their own discretion in spite of the victim’s wishes, it can be a source of extra stress. Taking down a recording should not be an option at the discretion of the police.

An important question is whether the problems of stalking victims arise out of legal restrictions or implementation difficulties. Both Article 285b CC, Article 422bis and the Supreme Courts seem lenient enough to work with in practice. Whether stalking is really as difficult to prove as police officers seem to think could not be assessed within the parameters of the current study. It might very well be that the repetitiveness of the behaviour and the sometimes stealthy manners that constitute the pursuit cause evidentiary difficulties even if the police would dedicate themselves to a case. After all, how do you prove who threw a brick through your window? Still many stalkers actually leave a substantial trail of evidence behind them in the form of letters, internet postings or e-mails, but sometimes nothing seems to be

done with that, because of indifference or because of flawed ideas on what constitutes sufficient evidence.

A first recommendation to increase police effectiveness and victim satisfaction is the use of one police file that is meticulously administrated and the employment of one specialized contact person per case. Apart from that, a standardized procedure on how to deal with stalking can be incorporated and police officers will be better able to deal with stalking if they receive an in-depth training on the topic. Also a greater consideration for the needs of stalking victims should be internalized and attention should also be paid to the sometimes diverging needs of victims. Where some victims desire to have their offender punished for the crime, others are more interested in the cessation of the stalking and have a genuine fear to follow the legal procedure through. Ironically enough, too vigorous an enforcement can have negative consequences as well. The police seem to have a bias towards prosecuting. So where certain victims felt a need for other solutions besides a trial, they sometimes found little response with the police. The legal system should be receptive of these needs as well. This training should not be imbedded in a domestic violence context, but should deal with stalking in its own right.

Another – probably more expensive - option is to set up specialized anti-stalking units (Roberts and Dziegielewski, 2006). But first and foremost law enforcement agencies should make stalking crimes a priority and should classify such crimes as serious crimes.. The success stories that were detected in the literature (Cupach & Spitzberg, 2004) and in our research all reflected communities that had prioritized stalking. In the end with a greater consideration for the procedural and distributive needs of this special group of victims they are bound to be much more satisfied with themselves, the criminal justice system and society as a whole and surely that is something worth striving for.

## References

- Attinello, K.L. (1993). Anti-stalking legislation: A comparison of traditional remedies available for victims of harassment versus California Penal Code Section 646.9 (California Anti-Stalking Law). *Pacific Law Journal*, 24(4), 1945-1980.
- Baarda, D.B., De Goede, M.P.M., & Kalmijn, M. (2000). *Enquêteren en gestructureerd interviewen*. Groningen: Wolters-Noordhoff.
- Baas, N.J. (1998). *Stalking: slachtoffers, daders en maatregelen tegen deze vorm van belagen*. Den Haag: WODC.
- Balogh, L., Van Haaf, J., & Römken, R. (2008). *Tot hier en niet verder. De effectiviteit van [AWARE](#) in vergelijking met een 112+ aanpak van belaging*. Tilburg: IVA.
- Bradburn, W.E. (1992). Stalking statutes: An ineffective legislative remedy for rectifying perceived problems with today's injunction system. *Ohio Northern University Law Review*, 19, 271-288.
- Brewster, M.P. (1999). *Exploration of the experiences and needs of former intimate stalking victims: Final report submitted to the National Institute of Justice*. West Chester, PA: West Chester University.

Bruynooghe, R.-M., Vandenberk, A., Verhaegen, L., Colemont, A., & Hens, I. (2003).

*Geweld in het meervoud. Een kwalitatieve benadering van de betekenissen rond geweldvormen in België.* Diepenbeek/Louvain-la-Neuve: SEIN.

Carlson, M.J., Harris, S.D., & Holden, G.W. (1999). Protective orders and domestic violence:

Risk factors for re-abuse. *Journal of Family Violence*, 14, 205-226.

Cupach, W.R., & Spitzberg, B.H. (2004). *The dark side of relationship pursuit. From*

*attraction to obsession and stalking.* Mahwah, NJ: Lawrence Erlbaum Associates

D'Haese, W., & Groenen, A. (2002). Politie-interventie bij slachtoffers van stalking.

*Politiejournaal & politieofficier*, 9, 19-23.

Dussuyer, I. (2000). Is stalking legislation effective in protecting victims? Paper presented at

the *Stalking: Criminal justice responses conference*, Sydney, Australia.

Finch, E. (2001). *The criminalisation of stalking: Constructing the problem and evaluating*

*the solution.* London: Cavendish.

Finn, P., & Colson, S. (1990). *Civil protection orders: Legislation, practice and*

*enforcement.* Washington, DC: National Institute of Justice.

Gist, J.H., McFarlane, J., Malecha, A., Fredland, N., Schutz, P., & Willson, P. (2001). Women

in danger: Intimate partner violence experienced by women who qualify and do not qualify for a protective order. *Behavioral Sciences and the Law*, 19, 637-647.

- Gondolf, E.W., McWilliams, J., Hart, B., & Steuhling, J. (1994). Court response to petitions for civil protection orders. *Journal of Interpersonal Violence*, 9, 503-517.
- Groenen, A. (2006). *Stalking. Risicofactoren voor fysiek geweld*. Antwerpen/Apeldoorn: Maklu.
- Hart, B. (1996). Battered women and the criminal justice system. In E.S. Buzawa, & C.G. Buzawa (eds.), *Do arrests and restraining orders work?* (pp. 98-114). Thousand Oaks, CA: Sage Publications.
- Herman, J.L. (2003). The mental health of crime victims: Impact of legal intervention. *Journal of Traumatic Stress*, 16 (2), 159-166.
- Hoffmann, J. (2003). Stalking. Polizeiliche Prävention und Krisenmanagement. *Kriminalistik*, 12, 726-731.
- Jordan, C.E. (2004). Intimate partner violence and the justice system: An examination of the interface. *Journal of Interpersonal Violence*, 19(12), 1412-1434.
- Kamphuis, J.H., Galeazzi, G.M., De Fazio, L., Emmelkamp, P.M.G., Farnham, F., Groenen, A., James, D., & Vervaeke, G. (2005). Stalking-perceptions and attitudes among helping professions. An EU cross-national comparison, *Clinical Psychology and Psychotherapy*, 12, 217-218.

- Kerbein, B., & Pröbsting, P. (2002). Stalking. *Zeitschrift für Rechtspolitik*, 2, 76-78.
- Kropp, P.R., Hart, S.D., & Lyon, D.R. (2002). Risk assessment of stalkers: Some problems and possible solutions. *Criminal Justice and Behavior*, 29, 590-616.
- Logan, T.K., Cole, J., Shannon, L., & Walker, R. (2006). *Partner stalking. How women respond, cope, and survive*. New York, NY: Springer Publishing Company.
- Malsch, M. (2004). *De Wet Belaging. Totstandkoming en toepassing*. Nijmegen: Ars Aequi Libri.
- Malsch, M., De Keijser, J.W., & Rodjan, A. (2006). Het succes van de Nederlandse Belagingswet: groei aantal zaken en opgelegde sancties. *Delikt en Delinkwent*, 8, 855-869.
- Malsch, M., Muijsken, J., & Visscher, M. (2005). Geweld in perspectief. Mishandeling in de huiselijke sfeer en belaging in het strafproces. *Delikt & Delinkwent*, 4, 360-379.
- Malsch, M., Visscher, M., & Blaauw, E. (2002). *Stalking van bekende personen*. Den Haag: Boom Juridische Uitgevers.
- Morris, S., Anderson, S., & Murray, L. (2002). *Stalking and harassment in Scotland*. Scottish Executive Social Research.

- Roberts, A. R., & Dziegielewski, S. F. (2006). Changing stalking patterns and prosecutorial decisions: Bridging the present to the future. *Victims & Offenders*, 1(1), 47-60.
- Römkens, R. (2006). Protecting Prosecution. The powers of criminal law to protect victims of stalking. *Violence Against Women*, 2, 160-187.
- Römkens, R., & Mastenbroek, S. (1999). *Dan hoor je de vissen ademen. Over belaging en bedreiging van vrouwen door hun ex-partner en de beveiliging door het Aware-systeem*. Utrecht: Universiteit Utrecht.
- Rupp, M. (2005). *Rechtstatsächliche Untersuchung zum Gewaltschutzgesetz. Zusammenfassung. Ein Überblick über die Ergebnisse aller Teilstudien*. Retrieved May 9, 2008, from Bundesministerium der Justiz website: [http://www.bmj.bund.de/files/-/1024/Evaluation\\_GewaltschutzG\\_Summary.pdf](http://www.bmj.bund.de/files/-/1024/Evaluation_GewaltschutzG_Summary.pdf).
- Sheridan, L. (2001). The course and nature of stalking: An in-depth victim survey. *Journal of Threat Assessment*, 1(3), 61-79.
- Spitzberg, B.H. (2002). The tactical topography of stalking victimization and management. *Trauma, Violence and Abuse*, 3, 261-288.
- Ten Boom, A., & Kuijpers, K.F. (2008). *Behoeften van slachtoffers van delicten. Een systematische literatuurstudie naar behoeften zoals door slachtoffers zelf geuit*. Den Haag: WODC, Ministry of Justice.



Tjaden, P., & Thoennes, N. (1998). *Stalking in America: Findings from the National Violence Against Women Survey*. Washington, DC: Department of Justice, National Institute of Justice.

Tyler, T.R. (1990). *Why people obey the law*. New Haven: Yale University.

Tyler, T.R., & Lind, E.A. (1992). A relational model of authority in groups. In M.P. Zanna (ed.), *Advances in experimental social psychology* (Vol. 25, pp. 115-191). San Diego, CA: Academic Press.

Walby, S., & Allen, J. (2004). *Domestic violence, sexual assault and stalking: Findings from the British Crime Survey*. London: Home Office.

Wemmers, J.-A. (1996). *Victims in the criminal justice system*. Den Haag: WODC, Ministry of Justice.

Winkel, F.W., Spapens, A.C.M., Letschert, R.M., Groenhuijsen, M.S., & Dijk, J.J.M. van (2006). *Tevredenheid van slachtoffers met 'rechtspleging' en slachtofferhulp: Een victimologische en rechtspsychologische secundaire analyse*. Nijmegen: Wolf.

## Footnotes

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<sup>1</sup> This is in contrast to Frazier & Haney (1996, in Herman, 2003) who in their study of 90 rape victims concluded that satisfaction and mental health outcomes were not necessarily linked. Most of their participants did not appear to be re-traumatized by their experience in the legal system even if (as was commonly the case) they were dissatisfied with the way they were treated. However, this study was limited by a small sample size and the respondents were in general satisfied with the police encounter (although not with the legal system as such).

<sup>2</sup> These categories were: (initial) response, care and support by the police; acknowledgement of the person; acknowledgement of the incidents; initial police response (e.g. arriving quickly); (the opportunity to) provide input in the criminal procedure; being treated as an interested party and being consulted; assent and power to make decisions; no role in the process; process characteristics (e.g. speed); outcome (e.g. arrest, punishment, material and immaterial restitution); meeting between victim-offender; information relating to their role as a party with an interest in the case; explanation (about systems etc.); other information (about offender, crime, motives); information about prevention; practical matters (e.g. return of possessions, separate waiting rooms); immediate safety; preventing repetition and protection of self and others.

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<sup>3</sup> Ten Boom & Kuijpers found 12 studies that contained information on the size of the group with a certain need. By taking the two needs that were mentioned most often by the respondents in each study they were able to identify the needs that were mentioned more often than others.

<sup>4</sup> This estimation was expressed during a personal conversation of the first author with the former research director of the organization.

<sup>5</sup> AWARE is an acronym that stands for Abused Women's Active Response Emergency.

<sup>6</sup> The violation of the privacy does not necessarily have to be considerable and the absence of enormous emotional consequences, disruption of daily life or fundamental influence on the personal life or liberty of the victim are not constituents of the crime (HR 26 May 2004, *LJN* 23/003942-03); Behavior of the suspect that has been displayed in a public area can still violate the privacy of the victim and the 'liberty of movement' as safeguarded by article 2 section 1 of the Fourth Protocol of the European Convention on Human Rights does not prevent limitations on this liberty for the protection of the rights and liberties of others (HR 29 June 2004, *NJ* 2004, 426). The Supreme Court even implies that under certain conditions merely making obscene phone calls can be liable to punishment under Article 285b CC (HR 9 December 2003, *NJ* 2004, 273).

<sup>7</sup> In the Netherlands, the Domestic Violence Directive (*Aanwijzing Huiselijk Geweld*) proscribes that in cases of ex-partner stalking, the police should do whatever is in their power to convince the victim of filing a report.